

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

D. G. Sweigert, Pro Se Counter-Plaintiff	PRO SE
-against-	21-cv-10878-AT-JLC
Jason Goodman, Pro Se Counter-Defendant	District Judge Analisa Torres
	Magistrate Judge James L. Cott

**DEFENDANT'S EXHIBITS ANNEX TO ACCOMPANY
CONDITIONAL COUNTER CLAIM (ECF no. 130)
AGAINST JASON GOODMAN (COUNTER DEFENDANT)**

The *pro se* Defendant-Counter Plaintiff (undersigned) files these papers as conditional upon a finding of personal jurisdiction by this Court upon the undersigned. *Wafios Machinery Corporation v. Nucoil Industries Co., Ltd.*, 03 Civ. 9865 (RWS) (S.D.N.Y. Jul. 21, 2004). If no personal jurisdiction is established against the undersigned by this Court these papers should be considered moot.

February 10, 2023



**D. G. SWEIGERT PRO SE DEFENDANT, C/O
PMB 13339, 514 Americas Way,
Box Elder, SD 57719**

CERTIFICATE OF SERVICE

It is hereby certified under the penalties of perjury that a true copy PDF file has been sent via e-mail message to the following:

Jason Goodman, sole stockholder of MULTIMEDIA SYSTEM DESIGN, INC.

truth@crowdsourcethetruth.org

And

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Certified under penalties of perjury.

Signed this 10th day of February 2023.



PRO SE DEFENDANT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGE WEBB SWEIGERT,

Plaintiff,

v.

CABLE NEWS NETWORK, INC. *et*
al.,

Defendants.

CIVIL ACTION NO.

1:22-CV-02946-SEG

ORDER

This matter is before the Court on a *sua sponte* review of subject matter jurisdiction. “Because a federal court is powerless to act beyond its statutory grant of subject matter jurisdiction, a court must zealously insure that jurisdiction exists over a case.” *Smith v. GTE Corp.*, 236 F.3d 1292, 1299 (11th Cir. 2001).

On January 4, 2023, the Court permitted Plaintiff to file an amended complaint to attempt to cure the jurisdictional defects identified in the Court’s previous orders. (Docs. 10, 12, 15.) The Court stated, however, that if “the amended filing demonstrates that diversity of citizenship does not exist, the Court will be obligated to dismiss the case.” (Doc. 15 at 1-2.)

On January 13, 2023, Plaintiff, a citizen of Georgia, filed an amended complaint. (Doc. 18.) The amended complaint fails to adequately allege that

diversity of citizenship exists in this case. In fact, it does the opposite. Plaintiff's amended complaint asserts state-law causes of action against Defendants Cable News Network, Inc. ("CNN") (a Georgia citizen), Donie O'Sullivan (a New York resident), and Jane Does and John Does at CNN. (Doc. 18 at 1.) "For diversity to exist there must be complete diversity: 'every plaintiff must be diverse from every defendant.'" *McConico v. Cochran Firm*, 581 F. App'x 838, 838 (11th Cir. 2014) (quoting *Triggs v. John Crump Toyota, Inc.*, 154 F.3d 1284, 1287 (11th Cir.1998)). So, despite the addition of Donie O'Sullivan, an alleged New York resident, as a Defendant, Plaintiff's amended complaint fails to show that he is diverse from every Defendant.

Accordingly, this case is **DISMISSED** without prejudice. *See Variable Annuity Life Ins. v. Adel*, 197 F. App'x 905, 906 (11th Cir. 2006) ("[I]f the amendments show that there is no diversity of citizenship, the district court must dismiss the action.") This dismissal does not prevent Plaintiff from bringing his lawsuit in the appropriate state court, subject to any applicable statutes of limitations.¹ CNN's first and second motions to dismiss (Docs. 5,

¹ In its second motion to dismiss, CNN "requests that this Court not only address this Amended Complaint based on the issues of diversity jurisdiction, but grant this motion based on issue and claim preclusion to provide the clarity needed to prevent future forum shopping abuses." (Doc. 19-1 at 27.) Without jurisdiction, however, the Court is prohibited from addressing the substantive claims in this matter. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83,

19) are **DENIED AS MOOT**. Plaintiff's motion for a finding of diversity (Doc. 16) is **DENIED**. The Clerk is **DIRECTED** to close this case.

SO ORDERED this 7th day of February, 2023.



SARAH E. GERAGHTY
United States District Judge

94 (1998) (“Without jurisdiction the court cannot proceed at all in any cause”); *United States v. Meyer*, 50 F.4th 23, 31 (11th Cir. 2022) (“[A] federal court cannot address the merits of a dispute unless it satisfies itself that subject-matter jurisdiction exists.”).